S.B.CIVIL MISC. APPEAL NO.335/2003

Balu Ram @ Bal Mukand
Vs.
Salam Singh & Ors.

Date of order : : 04.10.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Manish Pitaliya, for the appellant.
Mr.Pankaj Bohra for
Mr.J.S.Rathore, for the respondents.

This appeal has been filed against the order dated 12.12.2002 passed by learned Judge, Motor Accident Claims Tribunal, Chittorgarh in civil misc. claim case No.509/2002 (CM-41) whereby learned Judge has dismissed the application under Section 140 of the MV Act filed by the appellant for interim compensation of Rs.25,000/-.

Learned counsel for the appellant states that appellant Balu Ram alias Bal Mukand sustained fracture of left collar bone. There was 10% permanent disability which is also clear from the medical certificate issued by Medical Board of

Maharana Bhopal Government Hospital, Udaipur. Learned Tribunal has not believed the said certificate and wrongly came to the conclusion that no permanent disability has been caused to the appellant. Learned Tribunal has not properly considered the matter and dismissed the application of interim compensation filed by the appellant.

Learned counsel for the respondent has supported the impugned order and stated that learned Tribunal has passed reasoned which does not require any interference.

I have considered the rival arguments advanced by learned counsel for the appellant and gone through the order impugned.

From perusal of the record, it appears that the respondent No.1 Salam Singh was the driver and the respondent No.2 Hanuwant Singh was the owner of the offending vehicle bearing registration No.RJC 3859. The accident took place on 30.11.2000 and the said truck was insured with the respondent No.3 from 4.4.2000 to 3.4.2001. An FIR of the said incident was lodged at Police Station Bhilwara Sadar and charge-sheet was

also filed against the driver. It further appears that appellant received grievous injury in the alleged accident and it is clear from the medical certificate issued by the Medical Board that she got 10% permanent disability. In these circumstances, the appellant was entitled to receive interim compensation from the respondents. At the stage of interim compensation for No Fault Liability under Section 140 (1) of the MV Act, only this question should be seen whether permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle and if the same is found to be proved, the owner of the vehicle shall or as the case may be, jointly and severally be liable to pay compensation in respect of such disablement. Learned Tribunal has not considered the provision of Section 140 (1) of the MV Act in true perspective and has dismissed the application filed by the appellant for interim compensation.

Accordingly, the present civil misc. appeal is allowed. The order dated 12.12.2006 passed by learned Judgment, Motor Accident Claims Tribunal in Civil Misc. Claim Case No.50/2002 [CM-41] is quashed and set aside. The respondent No.2 owner and respondent No.3 Insurance Company are held liable jointly

and severally to pay the interim compensation for No Fault liability but the vehicle in question was insured with the respondent No.3 (Insurance Company), therefore, respondent No.3 shall pay the interim compensation of Rs.25,000/-. The Insurance Company is directed to deposit the said amount of interim compensation in the Tribunal within a period of two months. Deposited amount may be disbursed to the claimant-appellant.

A copy of the order along with original record of the case be sent back to the concerned Tribunal immediately.

(KRISHAN KUMAR ACHARYA), J.

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